

# **EXHIBIT 5**

## Case Summary

**Case Number:** KC052280

USA TIRE MARKETING, INC. VS AMERICAN SEASHORES

**Filing Date:** 02/05/2008

**Case Type:** Othr Breach Contr/Warr-not Fraud (General Jurisdiction)

**Status:** Pending

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### Future Hearings

**10/24/2008** at 08:30 am in department O at 400 Civic Center Plaza, Pomona, CA 91766

OSC-Failure to File Default Judg (DEFAULT PAPERS/WORK-UP IN TICKLER)

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[Documents Filed](#) | [Proceeding Information](#)

### Parties

AMERICAN SEASHORES INTERNATIONAL INC. - Defendant

AMERICAN TIRE CORPORATION - Defendant

USA TIRE MARKETING INC. - Plaintiff

WILNER ALAN D, LAW OFFICES OF - Attorney for Plaintiff

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[Case Information](#) | [Party Information](#) | [Proceeding Information](#)

### Documents Filed (Filing dates listed in descending order)

**06/26/2008** Notice of Motion  
Filed by Attorney for Plaintiff

**05/16/2008** Dismissal of Does (AS TO DOES 1-10 ONLY )  
Filed by Attorney for Plaintiff

**05/01/2008** Default Entered (COURT JUDGMENT SENT TO DEPT O WITH FILE ON 9-23-08 )  
Filed by Attorney for Plaintiff

**03/21/2008** Rtn of Service of Summons & Compl  
Filed by Attorney for Plaintiff

**02/28/2008** Summons Filed  
Filed by Attorney for Plaintiff

**02/06/2008** Notice-Case Management Conference

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**02/06/2008** Notice-Case Management Conference

SEP. 26. 2008 5:02PM A & A LEGAL SERVICE 6506974640

NO. 7696 P. 17

Filed by Clerk

**02/05/2008** Complaint Filed

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[Case Information](#) | [Party Information](#) | [Documents Filed](#)

**Proceedings Held** (Proceeding dates listed in descending order)

**08/27/2008** at 08:30 am in Department O, Meeka, Peter J., Presiding  
OSC-Failure to File Default Judg (DEFAULT PAPERS/WORK-UP IN TICKLER) - **Matter continued**

**06/27/2008** at 08:30 am in Department O, Meeka, Peter J., Presiding  
Conference-Case Management - **Completed**

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[Case Information](#) | [Party Information](#) | [Documents Filed](#) | [Proceeding Information](#)

SEP. 26. 2008 5:02 PM A &amp; A LEGAL SERVICE 6506974640

NO. 7596 P. 18

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) <b>Elkanah J. Burns</b> Law Offices of Alan D. Wilner 847 N. Hollywood Way Suite 201 Burbank, CA 91505 TELEPHONE NO.: 818 840-8889 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff		FOR COURT USE ONLY  <b>ORIGINAL FILED</b>  <b>MAR 21 2008</b>  <b>LOS ANGELES SUPERIOR COURT</b>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 400 Civic Center Plaza MAILING ADDRESS: same CITY AND ZIP CODE: Pomona, CA 91766 BRANCH NAME: East District		CASE NUMBER: KC052280
PLAINTIFF/PETITIONER: USA Tire Marketing, Inc. DEFENDANT/RESPONDENT: American Seashores International Inc.		Ref. No. or File No.
<b>PROOF OF SERVICE OF SUMMONS</b>		

(Separate proof of service is required for each party served.)

- At the time of service I was at least 18 years of age and not a party to this action.
- I served copies of:
  - ☒ summons
  - ☒ complaint
  - ☒ Alternative Dispute Resolution (ADR) package
  - ☐ Civil Case Cover Sheet (served in complex cases only)
  - ☐ cross-complaint
  - ☐ other (specify documents):
- Party served (specify name of party as shown on documents served):  
American Seashores International Inc., a corporation aka American Tire Corporation.
  - ☒ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):  
Abraham Hengyucius, authorized agent
- Address where the party was served: 10501 Valley Blvd. #1189  
El Monte, CA 91734
- I served the party (check proper box)
  - ☐ by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): (2) at (time):
  - ☒ by substituted service. On (date): 3-15-08 at (time): 4:00pm I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3):  
John Doe, person in charge (male, chinese, 40 years, 150 lbs., 5'8", black hair)
    - ☒ (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
    - ☐ (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
    - ☐ (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
    - ☒ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): from (city): or ☒ a declaration of mailing is attached.
    - ☐ I attach a declaration of diligence stating actions taken first to attempt personal service.



SEP. 26. 2008 5:03PM A &amp; A LEGAL SERVICE 6506974640

VO. 7696 P. 19

PLAINTIFF/PETITIONER: USA Tire Marketing, Inc.	CASE NUMBER: KC052280
DEFENDANT/RESPONDENT: American Seashores International Inc.	

5. c. ☐ by mail and acknowledgment of receipt of service. I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): (2) from (city):
- (3) ☐ with two copies of the Notice and Acknowledgment of Receipt and a postage-paid return envelope addressed to me. (Attach completed Notice and Acknowledgment of Receipt.) (Code Civ. Proc., § 415.30.)
- (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. ☐ by other means (specify means of service and authorizing code section):

☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. ☐ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (specify):
- c. ☐ as occupant.
- d. ☒ On behalf of (specify): American Seashores International Inc., a corporation aka American Tire corporation

under the following Code of Civil Procedure section:

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> 416.10 (corporation)          | <input type="checkbox"/> 416.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation)             | <input type="checkbox"/> 416.60 (minor)                               |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee)                 |
| <input type="checkbox"/> 416.40 (association or partnership)      | <input type="checkbox"/> 416.90 (authorized person)                   |
| <input type="checkbox"/> 416.50 (public entity)                   | <input type="checkbox"/> 416.46 (occupant)                            |
|   | <input type="checkbox"/> other:                                       |

7. Person who served papers

- a. Name: K. Rottner
- b. Address: Rottner Attorney Service, Inc. 1201 W. Temple St. Los Angeles, CA 90026
- c. Telephone number: (213) 482-0200
- d. The fee for service was: \$ 56.50
- e. I am:

- (1) ☒ not a registered California process server.
- (2) ☐ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☐ a registered California process server.
- (i) ☐ owner ☐ employee ☐ independent contractor.
- (ii) Registration No.:
- (iii) County:

8. ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: 3-17-08

K. Rottner

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)

(SIGNATURE)